

PART 1626—RESTRICTIONS ON LEGAL ASSISTANCE TO ALIENS

Sec.

- 1626.1 Purpose.
- 1626.2 Definitions.
- 1626.3 Prohibition.
- 1626.4 Applicability.
- 1626.5 Alien status and eligibility.
- 1626.6 Verification of citizenship.
- 1626.7 Verification of eligible alien status.
- 1626.8 Emergencies.
- 1626.9 Change in circumstances.
- 1626.10 Special eligibility questions.
- 1626.11 H-2 agricultural workers.
- 1626.12 Recipient policies, procedures and recordkeeping.

APPENDIX TO PART 1626—ALIEN ELIGIBILITY FOR REPRESENTATION BY LSC PROGRAMS

AUTHORITY: Pub. L. 104-208, 110 Stat. 1321;
Pub. L. 104-134, 110 Stat. 3009.

SOURCE: 62 FR 19414, Apr. 21, 1997, unless
otherwise noted.

§ 1626.1 Purpose.

This part is designed to ensure that recipients provide legal assistance only to citizens of the United States and eligible aliens. It is also designed to assist recipients in determining the eligibility and immigration status of persons who seek legal assistance.

§ 1626.2 Definitions.

(a) *Citizen* includes persons described or defined as citizens or nationals of the United States in 8 U.S.C. 1101(a)(22) and Title III of the Immigration and Nationality Act (INA), Chapter 1 (8 U.S.C. 1401 *et seq.*) (citizens by birth) and Chapter 2 (8 U.S.C. 1421 *et seq.*) (citizens by naturalization) or antecedent citizen statutes.

(b) *Eligible alien* means a person who is not a citizen but who meets the requirements of § 1626.5.

(c) *Ineligible alien* means a person who is not a citizen and who does not meet the requirements of § 1626.5.

(d) *Rejected* refers to an application for adjustment of status that has been denied by the Immigration and Naturalization Service (INS) and is not subject to further administrative appeal.

(e) To provide legal assistance *on behalf of* an ineligible alien is to render legal assistance to an eligible client which benefits an ineligible alien and does not affect a specific legal right or interest of the eligible client.

(f) *Battered or subjected to extreme cruelty* includes, but is not limited to, being the victim of any act or threatened act of violence, including any forceful detention, which results or threatens to result in physical or mental injury. Psychological or sexual abuse or exploitation, including rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered acts of violence. Other abusive actions may also be acts of violence under certain circumstances, including acts that, in and of themselves, may not initially appear violent but that are a part of an overall pattern of violence.

(g) *Legal assistance directly related to the prevention of, or obtaining relief from, the battery or cruelty* means any legal assistance that will assist victims of abuse in their escape from the abusive situation, ameliorate the current effects of the abuse, or protect against future abuse.

(h) *United States*, for purposes of this part, has the same meaning given that term in 8 U.S.C. 1101(a)(38) of the INA.

[62 FR 19414, Apr. 21, 1997, as amended at 62 FR 45757, Aug. 29, 1997]

§ 1626.3 Prohibition.

Except as provided in § 1626.4, recipients may not provide legal assistance for or on behalf of an ineligible alien. For purposes of this part, legal assistance does not include normal intake and referral services.

§ 1626.4 Applicability.

(a) Except for § 1626.12, the requirements of this part do not apply to the use of non-LSC funds by a recipient to provide legal assistance to an alien:

(1) Who has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse's or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty; or

(2) Whose child has been battered or subjected to extreme cruelty in the United States by a spouse or parent of the alien (without the active participation of the alien in the battery or extreme cruelty), or by a member of the spouse's or parent's family residing in